

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CHROMAR SYSTEMS, INC.,

Plaintiff,

-vs-

Case No. 06-13936
Hon: AVERN COHN

FOUNDRY NETWORKS, INC.,

Defendant.

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ORDER APPOINTING EXPERT ADVISOR

This is a complex patent case. The patent-in-suit, U.S. Patent Number 5,406,260, covers a Network Security System for Detecting Removal of Electronic Equipment. Claim 1 of the patent has previously been found invalid, 318 F.Supp.2d 476 (E.D. Mich. 2008).

Now before the Court is a challenge to the validity of claims 14 and 17. A special master recommends that these claims be held invalid. Plaintiff objects to the recommendation.

An expert advisor appointed under the Court's inherent authority would be a valuable asset to the Court, given the complex nature of the objections. As explained in *Appointing Special Masters and Other Judicial Adjuncts*, published by the Academy of Court Appointed Masters:

1.5 Expert Advisor

It has long been considered within a court's inherent authority to engage the help of an expert advisor. An expert advisor can act as a judicial tutor, providing guidance on complex or specialized subjects. Patent cases and trade secret cases are two contexts in which the need for an expert advisor occasionally arises. When an advisor is utilized, the trial court conducts the trial with support from the advisor.

See also, *Patent Case Management Judicial Guide*, §8.1.2.4 - Special Master, Court Appointed Expert or Confidential Advisor (Federal Judicial Center 2009).

Accordingly, the Court appoints

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as its expert advisor (advisor) to assist the Court in the research, analysis and drafting of a decision on the validity of the patent.

The Court may consult with the advisor from time to time, including pretrial and trial, *ex parte*, regarding both factual and legal issues involved in dealing with the special master's recommendation.

The advisor shall keep detailed records of his time and expenses. He shall render detailed monthly bills for his fees and expenses at the same rates ordinarily charged for his consultant services, and such bills shall be paid promptly as follows: fifty (50%) percent by defendant and fifty (50%) percent by plaintiff. The monthly bills shall be submitted directly to counsel for the parties, who shall take responsibility for prompt payment by their respective clients.

Objections, if any, to this order shall be filed within seven (7) days.

SO ORDERED.

Dated: October 31, 2011

S/Avern Cohn
AVERN COHN
UNITED STATES DISTRICT JUDGE

I hereby certify that a copy of the foregoing document was mailed to the attorneys of record on this date, October 31, 2011, by electronic and/or ordinary mail.

S/Julie Owens
Case Manager, (313) 234-5160